

Evaluation and update note: Agents – working with taxpayers and HMRC

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Executive summary

Introduction

The Office of Tax Simplification (OTS) is the independent adviser to government on simplifying the UK tax system. The work of the OTS is rooted in improving the experience of all who interact with tax. The OTS aims to improve the administrative process – which people encounter in practice – as well as simplifying the rules. These are often of equal importance to taxpayers and HMRC.

The impact of the work of the OTS is felt in a variety of ways, for example, through Ministerial responses to OTS reports,¹ action taken on OTS recommendations, and through prompting more informed public debate. OTS reports are widely referred to in HMRC strategy documents, external publications and in the media, and a broad range of stakeholders inside and outside government take a keen interest in OTS publications and recommendations.

Accordingly, a regular part of the OTS's work is to take stock of how its recommendations have been received and responded to, by producing evaluation and update notes to inform stakeholders about progress made and to flag up specific recommendations for refreshed consideration. The OTS is grateful for discussions with HMRC, HMT and a number of stakeholders outside government in carrying out this work.

The OTS has recently published an update note² on certain aspects of two of its previous reviews:

- Simplifying everyday tax for smaller businesses (published in May 2019)³
- Life Events review: Simplifying tax for individuals (published in October 2019)⁴

This is one of four additional, separate update notes dealing with other specific areas covered by those two reviews. This note looks at the issues affecting agents and other intermediaries; the others consider the Single Customer Account (including the benefits of agent access as an inherent part of its design), the High Income Child Benefit Charge and its wider implications, and PAYE issues.

1 See, for example, the Chancellor and Financial Secretary to the Treasury's response to the 'Simplifying everyday tax for smaller businesses' report

2 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041378/OTS_simplifying_tax_evaluation_note_-_December_2021.pdf

3 <https://www.gov.uk/government/publications/simplifying-everyday-tax-for-smaller-businesses>

4 <https://www.gov.uk/government/publications/ots-life-events-review-simplifying-tax-for-individuals>

In this note the OTS considers HMRC's agent strategy, in particular recognising the significance of the government's Tax Administration Strategy and HMRC's Tax Administration Framework Review.

The note looks not only at the barriers faced by paid agents – typically accountants, tax advisers and lawyers – but also the role of those who are appointed to act on behalf of a taxpayer under a power of attorney, and those who assist more informally, perhaps helping a friend or family member with their tax affairs or on an unpaid basis, such as a tax charity.

The note focuses primarily on agents and other representatives who carry out compliance work (such as preparing and filing tax returns) rather than those acting in a purely advisory capacity.

Current context

The OTS recognises the impact that the COVID-19 pandemic has had on all government work streams, and the necessary diversion of HMRC effort that has been needed. However, the pandemic has also opened up new benefits through increased digitisation and different ways of working.

For example, agents welcomed the increased acceptance by HMRC during the pandemic of modern ways of communicating, such as greater acceptance of digital or scanned signatures. Although this was limited in scope, more should now be done to build on these new practices, and HMRC must also seize the opportunity to build in proper agent access to all new systems as they develop.

HMRC Intermediaries Directorate

The OTS also welcomes HMRC's recent decision to create a new 'Intermediaries Directorate', which will have responsibility for monitoring and managing HMRC's relationships with tax agents and all other types of stakeholders with an intermediary role. The OTS also notes the interest that HMRC has in engaging with 'non-traditional' intermediaries going forward – such as tax reporting software providers, who can provide useful insight.

Key observations

Agent issues discussed in previous reports

Chapter 1 outlines the issues affecting agents and other intermediaries discussed in the two previous OTS reports, and developments since those reports. In particular the OTS welcomes the appointment in Autumn 2019 by HMRC of a senior official to oversee and provide leadership on the Agent Strategy, and the creation in January 2022 of the new Intermediaries Directorate.

Once the new Directorate is fully in place, the OTS would like to see HMRC publish a roadmap to show how they intend to develop and further implement their agent strategy – in particular in relation to ensuring that agent access to data is built into the policy and design of all new systems.

Registering as an agent

The complicated processes involved in registering as an agent with HMRC is described in Chapter 2: this is effectively limited to paid agents because of the requirement for the agent to have Anti-Money Laundering supervision.

The OTS suggests that there is no good reason for this limitation as it unnecessarily excludes members of relevant professional bodies or tax charities carrying out pro-bono work.

Agents also have practical issues in managing staff access to HMRC agent services,⁵ the OTS considers it is important that HMRC understand those challenges and work with agents and others or such as software providers, to overcome or minimise them.

Authorising an agent or another representative

Many taxpayers rely on agents or unpaid representatives to perform key functions in the tax system, such as filing tax returns. Data from HMRC shows that 54% (around 2.2 million) of those declaring self-employment income, and two-thirds (around 1.6 million) of landlords completing UK Property Pages in their Self Assessment tax returns, use agents to help with their tax reporting.⁶

Chapter 3 details the current processes for the taxpayer to authorise an agent or another person to act on their behalf. These processes, particularly those in relation to the new digital systems, are complex and confusing - and a review and update would be welcome.

There are also issues to be addressed for taxpayers who wish or need to appoint multiple agents – perhaps where one agent deals with tax affairs up to a point in time and a new agent deals with later years. The issue of multiple agents is brought into focus for hundreds of thousands of taxpayers with the introduction of Making Tax Digital for Income Tax. This is because there may be different agents appointed to undertake digital record keeping and filing for different aspects of a taxpayer's reporting obligations.

Separately, the OTS has noted that the number of people wishing to engage with HMRC on behalf of another individual through use of a power of attorney has significantly increased in recent years; however, there is as yet no public guidance on how such a power of attorney can be lodged or registered with HMRC. The OTS understands that HMRC is aiming to publish guidance on this shortly.

The trusted helper route is used by virtually no one due to its limitations and the OTS would welcome a review of this service.

Accessing taxpayer information

Agents need to be able to access client information held by HMRC and to be able to view the information in the same way the taxpayer sees it: this is discussed further in Chapter 4.

⁵ These services are HMRC Online Services for Agents and the Agent Services Account; see Chapter 2 for more detail.

⁶ HMRC data in the OTS Tax reporting and payment review, indicated that over 2.6m self employed and 1.6m landlords used an agent. Tax reporting and payment review (publishing.service.gov.uk)

HMRC made it clear in their 10 year Tax Strategy that they have a 'vision for agents to be able to see and do what their clients can'⁷ and to engage with agents to implement this vision.

While welcoming this commitment, the OTS considers that HMRC have not yet met reasonable expectations in relation to improving agent access to their client's information and that this should be reviewed, in particular as new systems are developed as discussed in Chapter 5.

The OTS notes that the summary of responses to the call for evidence on 'The tax administration framework: Supporting a 21st century tax system' clearly demonstrates that improving agent access to HMRC systems remains a key area.⁸ However, the 2021 Spending Review did not obviously provide any specific additional funding for agent strategy work over the next three years.

This is disappointing given HMRC's stated commitment to this issue: agents should be able to provide a strong and positive 'bridge' between taxpayers and HMRC and there is potential for this to be far more effective, reducing costs to both HMRC and taxpayers. Work in this area by HMRC has been slow to progress, in part held back by legacy IT systems, which need an urgent overhaul to improve specific problems and improve communication between HMRC and agents.

It is however well known that there are some risks with certain agent relationships. It is important that HMRC and other government departments remain alert to risks to taxpayers and to the public finances and consider a range of potential measures to aid consumer protection, including regulation. The OTS notes that a further consultation is to be published on methods of raising standards in the tax market.

Developing new systems

Finally, as discussed in Chapter 5, it seems clear that a successful roll out of new ways of working and new digital administration systems can only be achieved if agents are fully involved in the development of these systems from the very beginning.

Agent engagement is likely to be particularly important ahead of the introduction of key processes such as Making Tax Digital for Income Tax which is scheduled to start in April 2024; the Timely Payments initiative for which the design phase of a 3-year pilot will start in April 2022; and the Single Customer Account, currently in development.

For example, as currently planned, the roll-out of Making Tax Digital for Income Tax will require agents to migrate their clients individually from one HMRC agent services portal to another which will be a large administrative burden for agents.

⁷ Section 2: <https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system#the-core-of-a-modern-tax-system>

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037239/The_tax_administration_framework-Supporting_a_21st_century_tax_system__summary_of_responses.pdf

There is also an opportunity for HMRC to engage more actively with agents as part of the implementation process. All parties stand to benefit from such collaboration, with the potential to reduce the administration burden on taxpayers, create a smoother flow of revenue to HMRC, and reduce costs for HMRC and for taxpayers. Agents should be empowered to help with both raising awareness and understanding of the new system, and then the actual operation of the processes.

Chapter 1

Agent issues discussed in previous OTS reports

Overview

- 1.1 This evaluation focuses mainly on two previous reports: the Simplifying Everyday Tax for Smaller Businesses report¹ and the Life Events review: simplifying tax for individuals report.²
- 1.2 The OTS considers below the many significant barriers experienced by agents, either in becoming registered as agents with HMRC, or in being authorised to act as agents for their clients.
- 1.3 A further barrier to agents or other representatives being able to help taxpayers are the inconsistencies and limitations on the information the agent can access from HMRC.
- 1.4 The OTS has therefore looked in detail at the following key areas:
 - Registering with HMRC as an agent
 - Being authorised as a professional agent to act on a client's behalf with HMRC, and registering as an attorney or as a trusted helper to act on another's behalf with HMRC
 - Access to taxpayer information
- 1.5 Reviewing all these areas and building in early-stage consultations between HMRC and agents (and other intermediaries) for new compliance processes, could significantly improve taxpayer and agent interaction with HMRC.

Background

Simplifying everyday tax for smaller businesses report

- 1.6 In the Simplifying Everyday Tax for Smaller Businesses report, one area the OTS looked at was the importance of the role of agents, particularly in supporting taxpayers' compliance. This could be, for example, by accessing key compliance information and facilities on the taxpayers' behalf (for example, filing tax returns) or by providing taxpayers advice about changes to tax legislation.

¹ <https://www.gov.uk/government/publications/simplifying-everyday-tax-for-smaller-businesses>

² <https://www.gov.uk/government/publications/ots-life-events-review-simplifying-tax-for-individuals>

- 1.7 Although HMRC clearly recognised the value of the role of agents and sought to support them - as recognised in HMRC’s 2014 Agent Strategy³ - feedback the OTS received from agents was generally less favourable than feedback from individuals and businesses. One frustration was that agents are not always able to access the same information as their clients or carry out transactions that their clients wish them to do, and there is an inconsistent approach across the various tax services.
- 1.8 The OTS was also concerned to see evidence of considerable gaps in mutual understanding between agents and HMRC officials. For example, agents don’t always appreciate the complexity and challenge of making change for an organisation that deals with more than 31 million⁴ income taxpayers. On the other hand, the OTS also encountered tax officials who did not seem to understand the extent to which compliance (as opposed to tax planning) is at the heart of the agent’s role.
- 1.9 The OTS therefore made two recommendations⁵ specifically in relation to agents, the first that HMRC should appoint a senior official to oversee and prioritise implementation of the Agent Strategy and also, importantly, that HMRC should routinely build agent awareness and needs into system design and improvement and its related guidance.

High-level response from HMRC

- 1.10 The response to this from HMRC⁶ has been positive.
- 1.11 Since the report was published, they have appointed a senior official to oversee and provide leadership on the Agent Strategy, the focus being to ensure constructive engagement with the agent profession, to strengthen listening, and make sure the role and needs of agents are understood and incorporated into development of new systems.
- 1.12 HMRC are also setting up a new ‘Intermediaries Directorate’⁷ which aims to strengthen their approach to developing and managing the role of agents and other intermediaries in tax administration. The new Directorate will include the Agent Policy Team and Customer Stakeholder Engagement Team - both currently within the Customer Insight and Design Directorate - as well as bringing a new focus to the role of the wider intermediary community
- 1.13 HMRC recognises that intermediaries such as agents are an important part of the tax ecosystem and play an increasingly important role in tax administration supporting compliance, customer experience and efficiency.

3 <https://www.gov.uk/government/publications/agents-strategy-an-overview>

4 Para 4.46 <https://www.gov.uk/government/publications/simplifying-everyday-tax-for-smaller-businesses>

5 Recommendations 4 and 5: <https://www.gov.uk/government/publications/simplifying-everyday-tax-for-smaller-businesses>

6 Chancellor responds to OTS report on simplifying everyday tax for smaller businesses - GOV.UK (www.gov.uk)

7 The new directorate was announced in autumn 2021 and its director started in the new role in mid-January 2022.

- 1.14 Millions of taxpayers already rely on agents to perform key functions in the tax system and new ways of working and digital advances are likely to increase their importance. This is recognised in HMRC's Tax Administration Strategy (TAS) that sets out a growing role for intermediaries, driven by technology and taxpayer choice.
- 1.15 Engaging with other intermediaries, such as software providers, is particularly welcomed as their views are a key part of the overall tax compliance journey and in particular with piloting and testing new online processes.
- 1.16 Once the new HMRC Directorate is fully in place, the OTS would like to see HMRC publish a roadmap for how they intend to develop and further implement their agent strategy – in particular in relation to ensuring that agent access to data is built into the policy and design of all new systems.

Life events: simplifying tax for individuals

- 1.17 This report, published in October 2019, included an exploration of the role of agents and other representatives in helping individual taxpayers (rather than businesses) engage with tax in relation to a wide range of life events, such as entering work, changing jobs, saving for or drawing a pension, and bereavement.
- 1.18 The report particularly focussed on supporting those who are less able to take care of their own affairs and recommended⁸ that HMRC should integrate and improve its various sources of guidance for those helping others, including agents and those with powers of attorney, to help make it easier for suitable people (whether paid or not) to take on such roles.
- 1.19 Chapter 3 analyses the current state of play in relation to these issues.

High volume agents

- 1.20 The OTS also comments further on the role of High Volume Agents, which was considered in a separate OTS report 'Claims and Elections' published in 2020, following the publication of the responses to the consultation on raising standards in the tax market.⁹

⁸ Recommendation 13: <https://www.gov.uk/government/publications/ots-life-events-review-simplifying-tax-for-individuals>

⁹ <https://www.gov.uk/government/consultations/raising-standards-in-the-tax-advice-market>

Chapter 2

Registering with HMRC as an agent

- 2.1 A tax agent is usually a paid professional, such as an accountant, tax adviser or lawyer, who can be appointed to act with HMRC on the taxpayer's behalf.
- 2.2 All agents who register with HMRC - whether or not professionally qualified or regulated - have to meet minimum standards, including anti-money-laundering compliance.¹ This effectively limits agent registration to paid agents, which can cause issues for those carrying out pro-bono work, such as tax charities, or tax professionals operating in a personal capacity.
- 2.3 Registering as an agent with HMRC is complicated and confusing - particularly as there are two separate systems for agents to register with – with limited help available from HMRC.
- 2.4 Agents are also aware of the need to manage their systems securely and this can be a challenge - particularly with the Agent Services Account where only one account is available to each organisation.
- 2.5 A review of the registration system, including more modern means of communication with HMRC and recognition of security issues for both HMRC and agents, would be welcomed.

The agent registration processes

- 2.6 There are two main online systems where professional agents can access information on their clients' tax affairs and, in some cases, file reports or returns on their clients' behalf:
 - **HMRC Online Services for Agents**

This service gives agents access to many core tax services such as Self-Assessment, Corporation Tax, the Construction Industry Scheme, Stamp Taxes and Employment Related Securities. This service has been available for many years and is a key provision for most agents.
 - **Agent Services Account**

HMRC introduced this service in 2018 - it enables agents to access services such as Making Tax Digital for VAT, the Capital Gains Tax on UK Property Account - for '60-day' (previously 30-day) Capital Gains Tax returns - and the Trust Registration Service. It also allows agents to access Making Tax Digital for Income Tax which is currently scheduled to start on 6 April 2024.

¹ HMRC: the standard for agents - GOV.UK (www.gov.uk)

- 2.7 The process for an individual or a firm registering with HMRC as an agent to use these services and act on taxpayers' behalf is not always easy or clear-cut. Most registration applications have to be made to HMRC in writing (unless the agent is based overseas, when an online application can be made) and there can be confusion between applications for the different services provided by HMRC, as outlined below.
- 2.8 There is a list of information and verification requirements which agents have to provide. One of these is that they must have an Anti-Money Laundering Supervisor. This would generally only be in place where the agent is carrying out paid client work, so agents who only carry out pro-bono work, or quasi-agents such as tax charities, would not normally be able to meet this condition. This would also be the case for professional tax advisers who are employed, say in an accountancy practice, but who also carry out pro bono work for friends and family in a personal capacity, as they would not generally have Anti-Money Laundering supervision in that personal capacity.
- 2.9 There seems no good reason to limit agent registration to paid agents. Instead, it would be more helpful to include agents who abide by the HMRC standards for agents² and are members of relevant professional bodies. This would continue to ensure high standards through the ethical and professional conduct required by the Professional Conduct in Relation to Taxation (PCRT). These standards are mandatory for members of the PCRT bodies and are voluntarily adhered to by certain other agents.³
- 2.10 The agent's registration application is sent to HMRC's Central Agent Maintainer Team. The team aims to respond within 28 days and the OTS understands the process usually works well. However there does not appear to be a contact number for any questions about the application, or to confirm the application has been received. It would be helpful if HMRC could provide a phone number for these purposes.
- 2.11 Once registered as an agent, the agent then has to make separate online applications to HMRC to add specific services (such as Self Assessment or Corporation Tax): an authorisation code is posted to the agent to complete the addition of the service.
- 2.12 If an agent is already authorised as an agent for HMRC Online Services for Agents for Corporation Tax, Self Assessment, VAT or PAYE, they do not need to apply in writing separately to register for the Agent Services Account as the application can then be done online. However, this doesn't work in the other direction: a separate written application for HMRC Online Services for Agents is needed even if the agent has an Agent Services Account, which agents find complicated and confusing.

² <https://www.gov.uk/government/publications/hmrc-the-standard-for-agents/hmrc-the-standard-for-agents#the-standard>

³ The PCRT is a set of standards set by 7 leading professional bodies and endorsed by HMRC
200601-1.PDF (kc-usercontent.com)

Agent management of the Agent Services Account and HMRC Online Services

- 2.13 A key difference between these two services is that agents can have different HMRC Online Services Accounts for different offices or teams (or may have different accounts for different taxes) but can have only one Agent Services Account for each agent – regardless of the number of offices or teams within that organisation.
- 2.14 Having multiple service accounts helps the agent to manage staff access to data - for example, a practice with several locations may have a separate HMRC Online Services Account for each office. It could also help HMRC track agent performance by office or other location and can be used in some cases to help keep information about certain higher profile clients secure from broader access within a firm.
- 2.15 By contrast, as there is only one Agent Services Account per agent, careful consideration has to be given on staff access to the organisation's Agent Services Account to ensure client information remains secure.
- 2.16 This can give rise to a number of practical issues: for example information in HMRC Online Services for Agents is easy to access using a search by client name or Unique Taxpayer Reference number (UTR). However, the Capital Gains Tax Service within the Agent Services Account, for example, identifies the taxpayer only by a reference number (a unique 15 digit number created for their Property Account) so it is more difficult for the agent to locate and access the client information.
- 2.17 The OTS understands that HMRC have consulted with agents on this point and the preference of many agents is to leave the Agent Services Account access as it is, in view of security concerns with access to client information, particularly for bigger agents with multiple offices or teams. Larger agents will almost certainly need to manage staff access via a central team.
- 2.18 However, that may cause challenges when numerous clients currently in Self Assessment are transferred to reporting under Making Tax Digital for Income Tax and a simple, effective and secure way of identifying clients is needed when agents access the service. The OTS understands that discussions between HMRC and agents are ongoing, so that HMRC can fully understand the issues involved.

Going forward

- 2.19 The OTS understands that the intention is to eventually merge HMRC Online Services for Agents and the Agent Services Account, although no specific timescale has been given. This will inevitably be a complex process and early and effective consultation between agents, other intermediaries and HMRC is likely to be very useful for all parties.

Chapter 3

Authorising an agent or another person to act on the taxpayer's behalf

- 3.1 Taxpayers can appoint a professional agent to act on their behalf with HMRC. They can also ask others to help with their tax affairs – for example the taxpayer may have someone who can act on their behalf under a power of attorney, or they may wish to appoint a 'trusted helper'¹ to interact with HMRC on their behalf.
- 3.2 In addition, charities such as TaxAid or Tax Help for Older People use the skills of tax professionals to give free help and advice to clients.
- 3.3 Again, the authorisation process can be complex and confusing, with different ways to make an authorisation request. This partly depends on which service is being accessed, but there are also inconsistencies within different service areas (for example, the way agents are authorised by their clients within the Agent Services Account varies from service to service).
- 3.4 Contacting HMRC to check on the progress of an authorisation is difficult, and in some cases - for example registering a power of attorney with HMRC - there is currently no published HMRC guidance on the process.
- 3.5 The OTS suggests that a review of the authorisation process by HMRC in conjunction with both agents and taxpayers would bring welcome clarification and be a basis for the changes needed to processes and guidance.

Being authorised as an agent to act on a client's behalf with HMRC

- 3.6 The process for a professional agent being authorised to act on behalf of a client depends on which system is being used:

HMRC Online Services for Agents

- 3.7 The agent usually applies online - through the HMRC Online Services for Agents portal - for authorisation to act for a client and HMRC then sends an authorisation code to the client in the post. The client relays the code to the agent who completes the authorisation process online: the agent can then access their client's information and in some cases, use the online service to file returns on their clients' behalf.

¹ Help friends or family with their tax - GOV.UK (www.gov.uk)

- 3.8 One issue with online authorisation is that it relies on the client receiving the authorisation code: this is sent to the address held by HMRC which can be a challenge if the client has moved and not updated their address, or if for some reason they are not able to check their post at that address. This became a particular issue for businesses during the COVID19 pandemic when staff were unable to check office post on a regular basis.
- 3.9 It is also possible for a taxpayer to carry out completely digital online authorisations through their Business Tax Account - this is currently available for services including PAYE, VAT, Corporation Tax and Self Assessment authorisations but does not include services such as Employment Related Securities, the Construction Industry Scheme or Stamp Taxes.
- 3.10 This process does not appear to have been publicised: it would be helpful if it could be made more widely-known to agents and taxpayers and if this authorisation method could be expanded to the other services in HMRC Online Services for Agents.
- 3.11 Alternatively, agents can be authorised by submitting a paper form (form 64-8), to HMRC. The form needs the client's signature: since February 2021 HMRC have confirmed² they will accept digital signatures, which is a welcome development. It would be helpful if this were made clearer either on the form itself, or in the accompanying guidance.
- 3.12 The signed printed form is then posted to HMRC's Central Agent Authorisation Team for manual processing. Once processed, again the agent can access the client information within HMRC Online Services for Agents.
- 3.13 Although often less convenient than an online authorisation, there can be various reasons why the paper form 64-8 is used. For example, where clients are based overseas there can be a long delay before they receive the necessary code for an online application in the post. As the codes are time-limited the client may well not receive the code until after it has expired.
- 3.14 However, using a paper form is not ideal, as there can be delays in both obtaining a signed form from the client, and with the form being processed by HMRC. Although the forms are usually processed by HMRC within a few weeks there is no way to check on progress of a specific authorisation (although the new HMRC service dashboard, currently being tested by some agents, does give a useful overview of wait times for key HMRC services, including agent authorisations) and no team contact phone number at HMRC.
- 3.15 Paper forms 64-8 are also used where a client's tax affairs are not managed through HMRC Online Services for Agents – perhaps because they are dealt with under the PAYE system or file repayment claims rather than Self Assessment tax returns.

² <https://www.gov.uk/government/publications/agent-update-issue-82/agent-update-issue-82#forum>

Agent Services Account

- 3.16 Client authorisations carried out through the Agent Services Account are managed online, using a 'digital handshake'. This involves the client authorising the agent online with HMRC for the specific service.
- 3.17 For example, the process for '60-day' (previously 30-day) Capital Gains Tax returns is that the client initially sets up a Property Account through their Government Gateway and then notifies the agent of the generated account number. The agent then requests online authorisation in the Agent Services Account and the client then goes back to their Property Account to confirm the authorisation.
- 3.18 However, the OTS has been told that many taxpayers find the process confusing, particularly as the Property Account is not accessed through their Personal Tax Account – but is a completely separate service. The taxpayer has to set up a Government Gateway to be able to create a Property Account, and it is not unknown for taxpayers to end up creating a new Gateway ID, accidentally bypassing an existing Gateway ID during the set-up process.
- 3.19 The Trust Registration Service is also part of the Agent Services Account: the Trust Register itself is effectively a register of the beneficial ownership of all UK (and some non-UK) trusts.
- 3.20 Agents are able to manage the Trust Register on behalf of clients through the Agent Services Account: the OTS has been told that this service is a cause of frustration and concern for agents, in particular the functionality of the digital handshake process.
- 3.21 Bearing in mind there is a new requirement from September 2022 that all trusts must be registered - even those which have no tax liability - it would be helpful if HMRC could review whether changes are needed to the authorisation process for this service.
- 3.22 Meanwhile, HMRC have a published phone number for queries on trusts (including the Trust Registration Service) which is very helpful to both taxpayers and agents.³
- 3.23 One advantage of the digital handshake authorisation process is that it can all be carried out online, which is particularly useful for overseas clients. However, the OTS understands that some overseas clients find they are unable to create a Government Gateway so clarification in HMRC guidance of the registration process and requirements of this initial step would be helpful.
- 3.24 If a client is digitally excluded due to age, disability, remoteness of location or because of religious beliefs, then returns or reports within the Agent Services Account – such as the 60 day CGT return - can be filed by the agent on the taxpayer's behalf using paper returns.
- 3.25 There can be, however, taxpayers who are digitally challenged rather than excluded - for example they may not meet the criteria for exclusion or for

³ <https://www.gov.uk/government/organisations/hm-revenue-customs/contact/trusts>

additional HMRC support⁴ but simply find it difficult to work online - and these clients would not be eligible for a paper return: typically, they will require additional support from their agent to create a Property Account, which can be expensive for the taxpayer.

- 3.26 Clearer ways for taxpayers to contact HMRC to set up or manage their Government Gateway and to set up services such as the Property Account would be helpful.
- 3.27 Agents and taxpayers using the Agent Services Account have raised many issues with the authorisation process, particularly through the HMRC Customer and Agent Forums, and it is helpful to see HMRC responses to the issues reported.

Registering a power of attorney

- 3.28 One option where additional financial help or support is needed is for a taxpayer to set up a legal 'lasting power of attorney' for property and financial affairs. This is not specific to tax matters. Where this is in place, it can be lodged with HMRC and the appointed attorney can then act on the taxpayer's behalf and should have access to all information that is available to the taxpayer.
- 3.29 There is, as yet, still no published guidance from HMRC on how such a power of attorney can be lodged or registered with HMRC, though the OTS understands that HMRC usually asks that a certified copy is sent to them with a covering letter. The OTS understands however that HMRC are aiming to publish guidance shortly.
- 3.30 As the OTS noted in the Life Events report, such guidance would be valuable, given that the number of registrations of lasting powers of attorney with the Office of the Public Guardian increased from around 300,000 (6,000 a week) during 2014 to around 780,000 (15,000 a week) during 2018. As lasting powers of attorney become more commonplace, it would be helpful for HMRC to clarify their processes for registering the document in their records, the extent to which doing so in one place carries across into other HMRC systems, and how the attorney is then able to engage with HMRC on the individual's behalf.⁵
- 3.31 The Office of the Public Guardian launched an online service in July 2020 called 'Using a lasting power of attorney':⁶ this enables the attorney to lodge documentation with an organisation online. It is used by many banks and by various other organisations such as the Department for Work and Pensions and it would be helpful to know how HMRC might interact with that service. at some point.

⁴ <https://www.gov.uk/get-help-hmrc-extra-support>

⁵ <https://www.gov.uk/government/publications/ots-life-events-review-simplifying-tax-for-individuals> paragraph 5.22

⁶ New online service to improve Lasting Power of Attorney - GOV.UK (www.gov.uk)

Trusted helpers

- 3.32 If the taxpayer is being helped on an informal basis – for example by a friend or family member – HMRC provide a ‘trusted helper’⁷ service where the verification process is less stringent.
- 3.33 Registering as a trusted helper can be done online - both the taxpayer and the helper will need to be able to prove their identity through GOV.UK Verify and although this is a welcome safeguard, it can present practical issues if the required specific documentation (such as a passport or driving licence) is not available.
- 3.34 Alternatively, the registration can be done through a phone call to HMRC.
- 3.35 Once registered, the trusted helper has access to some of the taxpayer’s tax information, although this is very limited as outlined in Chapter 4.
- 3.36 For example, a trusted helper can, on behalf of the person they are helping, check or update a personal tax account or claim a tax refund. However, they cannot file a Self Assessment tax return.
- 3.37 The number of registered trusted helpers is very low – only 1,212 people became trusted helpers between 2017 and July 2019⁸ - which may be an indication of the lack of practical usefulness of the service. Perhaps because of this, the OTS has heard that friends and family may in practice log in directly to the individual’s own Personal Tax Account. Even where the taxpayer gives consent, this could cause security and confidentiality issues for the taxpayer.
- 3.38 HMRC carried out research into the trusted helper service in August 2019⁹ which highlighted some of the negative experiences around the service and also, helpfully, suggested ways the service could be improved, such as raising awareness, better signposting and dedicated HMRC support.
- 3.39 The OTS understands that HMRC are currently carrying out a further review of the trusted helper process and it will be useful to learn what HMRC’s thoughts are on the future of the service, and how it might be improved or expanded.
- 3.40 It is important that trusted helpers have appropriate authority to act and access to sufficient detail of the taxpayers’ affairs to enable them to assist in a meaningful way, but this will need to be balanced with security issues so that the system is not abused. Safeguards such as requiring an annual taxpayer authorisation of trusted helpers’ powers, and requiring all repayments to be made direct to the taxpayer, could be one possibility.

Other issues

- 3.41 The OTS has been told that the authorisation process can cause other issues for agents, particularly with HMRC Online Services for Agents.

7 <https://www.gov.uk/help-friends-family-tax>

8 <https://www.gov.uk/government/publications/ots-life-events-review-simplifying-tax-for-individuals>

9 <https://www.gov.uk/government/publications/research-into-the-trusted-helper-population>

- 3.42 For example, it might be that an agent is appointed for a specific task, such as dealing with a complex compliance check (HMRC Enquiry) or with a Research and Development or Capital Allowances claim. HMRC have a temporary authorisation process specifically for compliance checks dealt with by another agent, but this is necessarily limited in scope as HMRC have concerns with authorising secondary agents (as, for example, they may not have undergone the agent authorisation process).¹⁰
- 3.43 Alternatively, it may be that the taxpayer changes agents but wants the previous agent to continue to deal with earlier tax years: currently this is not possible with agent authorisations as (other than temporary authorisations for compliance checks) only one agent at any one time can act for the taxpayer for a specific service. The taxpayer can however have different agents for different services (for example they can have different agents for, say, Self Assessment and MTD for VAT).
- 3.44 The OTS has also heard that an agent being removed when a taxpayer dies can be a particular challenge: there is likely to be a hiatus as HMRC generally remove the client from the agent's client list as soon as they learn of the death (usually under the 'Tell us Once' service) and, to continue to deal with the deceased's affairs the agent needs a fresh agent authorisation from the executors (who are a separate legal entity to the late taxpayer). Until the new authorisation is in place no one can access the taxpayer's records which can cause problems and delays for agents, executors and HMRC.

Challenges with agent access: high volume agents

- 3.45 High volume agents (HVAs) are businesses that, typically, prepare and submit low value tax refund claims – for example, employees' expenses claims - on behalf of taxpayers.
- 3.46 The use of HVAs has recently become more widespread and was highlighted as an area of concern in the October 2020 OTS report into 'Claims and Elections'.¹¹
- 3.47 A team within HMRC monitors the activities of HVAs, to check they comply with the Money Laundering Regulations, reviews their website and business model and carry out compliance checks, for example into potentially ineligible claims or multiple claims for the same taxpayer.
- 3.48 One specific issue for taxpayers is that HVAs will often insist on the taxpayer signing a Letter of Assignment or similar document, which may be poorly understood or not explained properly. Such a document gives the agent enduring power to receive all claims in respect of a given tax year for four years and is irrevocable, unless both agent and customer agree to any changes. The first such Assignment document received is processed and cannot be reversed for that tax year, meaning that claims submitted by another third party or by the taxpayer will result in payments to the initial provider, leading to significant taxpayer dissatisfaction.

¹⁰ <https://www.gov.uk/government/publications/compliance-checks-temporary-authorisation-comp1>

¹¹ OTS Claims and Elections report p39ff

- 3.49 The OTS understands that HMRC are considering possible ways in which to address these issues and has commissioned research into customers motivations and experiences of using High Volume Agents.¹²
- 3.50 Responses to HMRC's call for evidence on raising standards in the tax market were published on 30 November 2021.¹³ Whilst a proposal for all tax advisors to have professional indemnity insurance is not being taken forward at this time, a further consultation is planned to consider other ways of raising standards in this market. Meanwhile some specific safeguards are being introduced, in particular enhanced procedural requirements for Research and Development claims¹⁴ which is an area in which HVAs operate widely.
- 3.51 HMRC are also reviewing agent standards to address issues of poor behaviour, and in 2022 will update and publicise the HMRC Standard for Agents and publish the conclusions of an internal review of HMRC's existing powers to uphold agent standards.
- 3.52 The OTS welcomes these developments and recognises that increasing agent access has to be balanced with potential issues such as those from HVAs as well as security concerns generally.

12 <https://www.gov.uk/government/publications/the-use-of-high-volume-agents-to-claim-tax-rebates>

13 <https://www.gov.uk/government/consultations/raising-standards-in-the-tax-advice-market>

14 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037348/RD_Tax_Reliefs.pdf (para 2.36)

Chapter 4

Accessing taxpayer information

- 4.1 The OTS welcomes HMRC making clear in their 10 year Tax Strategy that they have a 'vision for agents to be able to see and do what their clients can'¹ and intends to engage with agents to implement this vision.
- 4.2 Once an agent is authorised to act for their client, either through HMRC Online Services for Agents, or the Agent Services Account, they are able to access a significant amount of client data and file returns or notifications. However, agents can't always see all information that their clients can see, or it may be presented differently which can cause confusion.
- 4.3 If an agent or other intermediary is acting for a taxpayer in another way – for example, helping a client who is not in the Self Assessment system, or acting as a trusted helper, the information available to them online is likely either to be very limited or not available at all.
- 4.4 The recent extension of HMRC's pilot service, which gives agent access to employer liability and payments data in their clients' PAYE for Employer account, is a welcome and much-needed improvement to this service. It would be helpful to both agents and taxpayers - and potentially also to HMRC as it would reduce agent queries - if other services could be similarly reviewed and improved.

Limitations on accessing taxpayer information by agents

- 4.5 Even where the agent is acting for a taxpayer in the Self Assessment system, the OTS has heard that in some circumstances, the information the agent can access is more limited than the information a taxpayer can access through their Personal Tax Account.
- 4.6 For example, a taxpayer can easily see details of current and previous year salaries and pensions but this information is not available to the agent through HMRC Online Services for Agents.
- 4.7 Information on clients who are not within Self Assessment (for example, repayment cases or cases dealt with under PAYE) is not currently accessible online by agents: this can be a source of frustration in situations where the agent knows the client can see the information in their Personal Tax Account – but which can't be seen by agents.

¹ Section 2: <https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system#the-core-of-a-modern-tax-system>

- 4.8 HMRC are currently trialling a new service through the Agent Services Account, 'Income Record Viewer' which will allow the agent to view their clients' pay and tax information for the current and the four previous tax years, including their coding and employment history. However, this is a view-only service and does not allow any changes or amendments to clients' records: for example, there is no facility to change incorrect PAYE codes.
- 4.9 HMRC are hoping the Income Record Viewer is likely to be fully available to all agents within the next year, depending on the outcome of the trials.
- 4.10 The OTS has been told that PAYE codes in particular cause challenges for both the taxpayer and agents. For example, taxpayers can view and amend their PAYE codes to a very limited extent through their Personal Tax Account, but even this limited facility is not available to agents (and will not be available through Income Record Viewer).
- 4.11 If changes need to be made to a PAYE code, the agent needs to call HMRC to arrange the change, which puts further pressure on HMRC's already strained resources. It would be helpful to know whether the Income Record Viewer could be expanded to allow agents to self-serve PAYE code changes on their client's behalf. (The OTS has published a separate update note on PAYE issues more generally.)²
- 4.12 Another source of frustration is the client information which, in theory, is available to agents through commercial tax return software APIs (Application Programming Interfaces).
- 4.13 The API should act as a bridge between HMRC and commercial tax return software, enabling (once the data for the tax year has been through HMRC's end-of-year reconciliation processes, which can take a few months) the agent to access details such as clients' earnings or pension taxed under PAYE and some COVID grants. However, the information provided to the agent through the API is on an inconsistent basis - information may be available for some years, but not others, or some information may be missing. For some clients the API may not work at all, with no apparent reason why this would be the case. This could be an area where further discussions between HMRC, agents and software suppliers would help resolve or clarify the issues involved.
- 4.14 Where information is missing – for example, pay details - the agent may be able to request the information from HMRC: however, this information cannot be given over the phone for security reasons, and has to be posted to the taxpayer, rather than being sent to the agent.
- 4.15 Another area where information is not available to agents is where a taxpayer has entered into a 'Time to Pay' arrangement with HMRC. These arrangements are essentially a payment plan – for example, payment by monthly instalments – to help taxpayers who would otherwise struggle to pay their tax liabilities. During COVID19, many taxpayers arranged to pay their tax by instalments, due to the uncertainty over their income levels.

² OTS evaluation paper on improvements to the operation of the PAYE system - GOV.UK (www.gov.uk)

- 4.16 Details of the payment plan are not shown in HMRC Online Services for Agents, so often the agent is not aware of whether their client is making payments under a payment plan. This can be unhelpful if the agent is advising the client of outstanding or forthcoming liabilities – perhaps to avoid penalty charges - as there will be no indication of whether there is already a plan in place.
- 4.17 The OTS welcomes the Government’s commitment, as set out in their Tax Administration Strategy, to improve agent access to their clients’ information at HMRC in the future and to design in agent access from the outset.
- 4.18 The OTS notes that the summary of responses to the call for evidence on ‘The tax administration framework: Supporting a 21st century tax system’ clearly demonstrates that improving agent access to HMRC systems remains a key area.³ However, the 2021 Spending Review did not obviously provide any specific additional funding for agent strategy work over the next three years.

Limitations for other representatives

- 4.19 Someone appointed under a power of attorney is able to act and make decisions on someone else’s behalf. However, there is no published guidance on what this means in practice in relation to accessing information at HMRC – for example how or in what capacity the Personal Tax Account can be managed or accessed.
- 4.20 Chapter 3 suggests specific guidance for those appointed under a power of attorney, and this should include details of how information should be accessed and what safeguards are in place.
- 4.21 As also explained in Chapter 3, the amount of information which can be accessed by a trusted helper is limited and currently the helper can help with the following:
- accessing and checking/updating the Personal Tax Account (PTA)
 - check the right amount of tax is being paid
 - claim a tax refund
 - check/update company car benefits.
- 4.22 The trusted helper may contact HMRC on behalf of the person they help but the person they are helping must be present and give permission over the telephone before the trusted helper can act on their behalf.
- 4.23 Again, this can be time-consuming and awkward given long wait times getting through to HMRC and also potentially recurring COVID concerns.

³ The tax administration framework: Supporting a 21st century tax system - summary of responses (publishing.service.gov.uk)

Chapter 5

Early-stage involvement with developing new systems

- 5.1 It would be helpful – to taxpayers, HMRC and agents – if agents and other representatives or intermediaries' involvement in new processes can be built in from the start. This could be by involving agents and software companies in pilots and testing at a very early stage, and also allowing sufficient time for the testing to take place.
- 5.2 More and better engagement with agents and others at an early stage would, the OTS suggests, considerably improve processes such as Timely Payment or Making Tax Digital for Income Tax – not just for agents and their clients but also for other taxpayers and also for HMRC, as there would be less time taken in resolving issues which could have been addressed at an early stage.
- 5.3 Early-stage involvement of other intermediaries such as software suppliers could improve the functionality of the IT process and HMRC's understanding of the challenges involved. This chapter discusses various ongoing initiatives where agent consultation and involvement is important.
- 5.4 Engagement with agents would also generally improve taxpayer understanding and take-up, which can only be a positive outcome for HMRC.

HMRC Intermediaries Directorate

- 5.5 The OTS welcomes HMRC's new 'Intermediaries Directorate' which aims to strengthen their approach to developing and managing the role of agents and other intermediaries in tax administration.
- 5.6 Engaging with other intermediaries, such as software providers, is particularly welcomed as their views are a key part of the overall tax compliance journey and in particular with piloting and testing new online processes.
- 5.7 As already noted, a roadmap for potential changes would be welcomed once the Directorate is in place.

Other new initiatives

- 5.8 The OTS outlines below various other initiatives which are currently in development, where close engagement with agents and other intermediaries would be of assistance.

The Single Customer Account

- 5.9 This is covered more fully in a separate evaluation paper.¹ It will be a new way of working that has the potential to greatly improve the tax experience for millions of taxpayers, while also creating significant efficiency and cost savings for HMRC.
- 5.10 Going well beyond a simple merger of the current Personal Tax and Business Tax Accounts, this initiative is intended to lead to a single account handling all taxpayer interactions with HMRC, with the capacity to facilitate the use of and access to third party data, as discussed in the OTS's July 2021 report: 'Making better use of third party data'.²
- 5.11 It is essential that the strategy for the Single Customer Account is closely aligned with HMRC's agent strategy: this should involve agent consultation at an early stage to ensure that appropriate access for agents to the underlying data they need from the Single Customer Record - which sits behind the Single Customer Account - is built in from the beginning, so that taxpayers, their agents and HMRC can all view the same information in a consistent way.

Timely Payment

- 5.12 HMRC have recently published³ a summary of the responses to their call for evidence 'Timely Payment' which explores the scope for more frequent tax payments for those in Self Assessment – perhaps monthly or quarterly, rather than the current annual (in some cases 6-monthly) payments.
- 5.13 A three-year voluntary 'proof of concept' pilot will start in April 2022: the initial design stage will include input from an external working group: the OTS understands that HMRC are seeking volunteers for this group from the agent community and others.⁴ If this is successful and this type of payment plan becomes more frequent, it will be important for agents to have visibility of this so they can advise their clients on outstanding taxes, or to help put a plan in place.
- 5.14 The OTS understands that at present the inclusion of agent access in the Timely Payment process is not in place, although it may be added in the medium term. The OTS suggest that more thought should be given to this and that agent access should be included in the process from the beginning.
- 5.15 If agents do not have visibility this will inevitably lead to confusion and uncertainty - and extra cost - for the taxpayer. This could hinder or delay take up by taxpayers for Timely Payment.

Making Tax Digital for Income Tax

- 5.16 Reporting under Making Tax Digital for Income Tax is scheduled to start on 6 April 2024, when eligible taxpayers - broadly, those who have annual self-

¹ <https://www.gov.uk/government/publications/ots-evaluation-paper-on-the-single-customer-account>

² Third party data report (publishing.service.gov.uk)

³ Timely payment: summary of responses (publishing.service.gov.uk)

⁴ Para 4.9 Timely payment: summary of responses (publishing.service.gov.uk)

employment or rental business income (or a combination of the two) of over £10,000 will need to report to HMRC on a quarterly basis.

- 5.17 Making Tax Digital for Income Tax is currently being piloted, and the recent deferral of the start date from 2023 to 2024 should help the testing process. However, the new reporting requirements could be challenging for many taxpayers: agent engagement is therefore likely to be particularly important going forwards as agents will provide a key role in helping clients with this new process.
- 5.18 The current pilot is limited to taxpayers who are established self-employed or landlords currently in self-assessment, who have a 5 April year end and who have not received COVID support under the self employed scheme or furlough scheme and who do not have any employee or pension income, taxable state benefits, capital gains or non-UK investment income.
- 5.19 The OTS understands that this means that even a large accountancy practice would have very few eligible clients. Limited testing (recent reports suggest there are currently only 9 people taking part)⁵, given this narrow constraint, will mean that the current pilot is much less effective than is ideal. The OTS understands that the pilot will be extended later in 2022 and it is hoped this will allow fuller testing.⁶
- 5.20 Both full consultation and engagement with agents are important, not least because taxpayers will find that, rather than filing once a year through Self Assessment, they will potentially need to file multiple separate reports. As explained in the OTS report on the Tax Year End Date,⁷ a self-employed trader who also has a buy-to-let property would need to file 11 Making Tax Digital for Income Tax updates in total each year, instead of one annual Self Assessment tax return.
- 5.21 Many are likely to pass on this compliance work to agents. For an agent with say 50 clients in that situation, this means at least 550 updates need to be filed each year, rather than the current 50. Many agents will struggle to cope with this increased demand, which is likely to lead to additional costs for the taxpayer, particularly if the agent has to employ extra staff or outsource the work.
- 5.22 The functionality of the Making Tax Digital for Income Tax service within the Agent Services Account will be a key area for successful implementation of the new legislation.
- 5.23 Making Tax Digital for Income Tax will be managed by agents through the Agent Services Account: one challenge that agents face is that existing clients – that is, those who are already registered within their HMRC Online Services for Agents service – will have to be re-registered for the Agent

⁵ <https://smallbusiness.co.uk/just-nine-people-trialing-digital-tax-for-self-employed-2559266/>

⁶ <https://www.tax.org.uk/making-tax-digital-for-income-tax-self-assessment-joining-the-pilot>

⁷ Para 2.48

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1016718/Tax_year_end_date_report__web_copy_.pdf

Services Account on client-by-client basis. There is currently no facility to do a bulk transfer of clients from one service to another.

- 5.24 Another concern from agents is that there is currently no facility for two separate agents to have access to the Making Tax Digital for Income Tax service in relation to the same taxpayer. As mentioned above, the quarterly updates, which are likely to be relatively straightforward compliance work, may be carried out by one provider (such as a bookkeeping service) while other areas such as the end of year update and the annual final declaration (tax return) are likely to be carried out by the accountant or tax adviser. It is therefore important that agents for both types of reporting have access to the client's Making Tax Digital for Income Tax records.
- 5.25 If this type of basic infrastructure is not considered at an early stage, then this could lead to poor take-up or inaccurate reporting. This in turn means that the process will not be as useful as HMRC currently envisage and would hinder the overall effectiveness of Making Tax Digital for Income Tax, which would be a disappointing outcome.